

In response to this restriction requirement, Applicants elect Group I, i.e., claims 1-23 and 48-51, directed to a composition, where this election is made with traverse.

Applicants respectfully contend that the claims of Group II, i.e., claims 24-30 and 52-60, be considered along with the claims of Group I. The Examiner has taken the position that the process as claimed can be practiced with a materially different product such as a particulate. Applicants respectfully disagree. The process as claimed is directed to using the composition of claim 1 to deliver drug to a subject. If the process as claimed were practiced with a materially different product, as suggested by the Examiner, then Applicants respectfully submit the process would not be performed according to its claimed language. Since the process for using the product as claimed could not be practiced with another materially different product, and since the product as claimed cannot be used in a materially different process of using that product, Applicants respectfully contend that restriction between the claims of Groups I and II is improper, and reconsideration and withdrawal of at least this portion of the restriction requirement is respectfully requested.

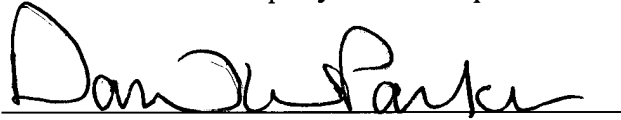
The Office Action further takes the position that, in the event Group I is elected, a single species within the Group should be elected for examination. In response, Applicants elect the species of Examples 4 and 5. This composition includes a biodegradable water insoluble polymer that is a solid or wax at 37°C, namely, "TB copolymer" as identified at page 50, line 24, and in Table 8, as "4600-35/35/30". This particular nomenclature is explained, starting at page 39, line 28 to 11. Accordingly, TB (triblock) copolymer 4600-35/35/30 has a molecular weight of 4600, and has a PLC (poly(DL-lactide-co-ε-caprolactone) endblock that contributes 35 wt% of the copolymer (equal amounts of lactide and caprolactone), a PEG (polyethylene glycol) midblock that contributes 30 wt% of the copolymer, and a PLC (poly(DL-lactide-co-ε-caprolactone)) endblock that contributes 35 wt% of the copolymer (again, equal amounts of lactide and caprolactone). See also page 8, lines 1-4 for an explanation of the PLC and PEG nomenclature.

This TB copolymer is in combination with a biodegradable water soluble polymer that is a liquid at 25°C, namely MePEG (methoxy terminated polyethyleneglycol, see, e.g., page 8, lines 29-30 for an explanation of this nomenclature) having a molecular weight of 350.

Consideration of the pending claims in view of the foregoing responses to the restriction requirement and election of species requirement is now requested.

Respectfully submitted,

Seed Intellectual Property Law Group PLLC

A handwritten signature in black ink, appearing to read "David W. Parker", written over a horizontal line.

David W. Parker

Registration No. 37,414

DWP:scc

Enclosures:

- Postcard
- Check for \$925.00
- Form PTO-1083 (+ copy)
- Request for an Extension of Time (+ 2 copies)
- General Authorization

701 Fifth Avenue, Suite 6300
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031

Wpn/110129/416/416RestReqResponse.doc